



7020-02

INTERNATIONAL TRADE COMMISSION

Investigation No. 337-TA-930

Certain Laser Abraded Denim Garments

Commission Decision Terminating the Remaining Respondents from the Investigation; Setting the Date for the Commission to Determine Whether to Grant the Petition for Review of Order Nos. 43 and 83

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ") initial determinations ("IDs") (Order No. 105 and 106), which terminated the investigation as to the remaining three respondents in the investigation. The Commission has determined to set January 20, 2016 as the date by which to determine whether to grant the petition for review of Order Nos. 43 and 83 by intervenor Dentons US LLP.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2532. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS)

at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 23, 2014, based on a complaint filed by RevoLaze, LLC and TechnoLines, LLC, both of Westlake, Ohio. 79 *Fed. Reg.* 56828 (Sept. 23, 2014). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, by reason of the importation into the United States, the sale for importation, and the sale within the United States after importation of certain laser abraded denim garments. The complaint alleged the infringement of seventy-one claims of six United States patents. The notice of institution named twenty respondents. On January 23, 2015, the ALJ granted the complainants' motion to amend the complaint and notice of investigation to add nine respondents. Order No. 20 at 3-4 (Jan. 23, 2015), not reviewed, Notice at 2 (Feb. 20, 2015). As a result of numerous unreviewed initial determinations terminating various respondents, only three respondents remain in the investigation: H&M Hennes & Mauritz AB of Stockholm, Sweden; H&M Hennes & Mauritz LP of New York, New York (collectively, "H&M"); and Eroglu Giyin San Tic AS of Istanbul, Turkey ("Eroglu").

On October 1, 2015, the complainants moved to terminate H&M based upon a withdrawal of the complaint. See 19 C.F.R. § 210.21(a). The Commission investigative attorney ("IA") supported the motion. On October 20, 2015, the ALJ granted the motion as an ID (Order No. 105). She found that the complainants complied with Commission Rule 210.21(a) and that good cause for withdrawal had been shown. Order No. 105 at 2.

Also on October 1, 2015, the complainants moved to terminate Eroglu on the basis of a settlement. *See* 19 C.F.R. § 210.21(b). The IA supported the motion. The ALJ found that termination as to Eroglu was in the public interest, and granted the motion. Order No. 106 at 3; *see* 19 C.F.R. § 210.50(b)(2).

One respondent was previously found to be in default. *See* Order No. 81 (Aug. 7, 2015), *not reviewed*, Notice (Sept. 1, 2015) (respondent Martelli Lavorazioni Tessili S.p.A. of Toscanella, Italy). On October 6, 2015, the complainants filed a contingent motion to terminate the investigation, explaining that they do not seek relief as to the defaulting respondent. The ALJ found the contingent motion to terminate to be moot in view of the issuance of Order Nos. 105 and 106 and in view of complainants' decision not to seek relief against the defaulting respondent. Order No. 106 at 3.

No petitions for review of the foregoing terminations (including as to the defaulting party) were filed. The Commission has determined not to review the IDs. The Commission notes that in granting termination as to Eroglu in Order No. 106, the ALJ observed the "unconventional state of the Agreements" demonstrating the settlement between the complainants and Eroglu. Order No. 106 at 2. That characterization is accurate, but the Commission finds that in view of the unique circumstances of this investigation, the ALJ's determination to terminate the investigation as to Eroglu was appropriate.

However, previously in the investigation, the then-presiding ALJ disqualified complainants' former counsel Dentons US LLP ("Dentons") in a non-ID order. Order No. 43 (May 7, 2015). Subsequently, the ALJ granted (as an ID) Dentons' motion to intervene regarding

its disqualification, Order No. 82 (Aug. 7, 2013), but denied (as an order) Dentons' motion for reconsideration of Order No. 43 as well as Dentons' request for leave to seek interlocutory review before the Commission, Order No. 83 (Aug. 7, 2015); *see* 19 C.F.R. § 210.24 (interlocutory review by the Commission). The Commission determined not to review Order No. 82. Notice (Aug. 26, 2015).

In response to the issuance of Order No. 106, which terminated the investigation before the ALJ, on October 27, 2015, Dentons filed a petition for Commission review of Order Nos. 43 and 83. *See* 19 C.F.R. § 210.24 (rulings by the ALJ "on motions may not be appealed to the Commission prior to the administrative law judge's issuance of an initial determination"). On November 9, 2015, former respondent the Gap opposed Dentons' motion.

Commission Rule 210.42 does not impose a deadline upon the Commission for ruling on Dentons' petition for review, which arises from previously unreviewable orders in the investigation. The target date for completion of the investigation is September 26, 2016. The Commission has determined that Order Nos. 43 and 83 shall become the determination of the Commission on January 20, 2016, unless the Commission shall have ordered review of those orders or certain issues therein or by order has changed that date.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 C.F.R. Part 210).

By order of the Commission.

Lisa R. Barton
Secretary to the Commission

Issued: November 18, 2015

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